

SENATE BILL 709

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By: **Senator Kasemeyer**

Introduced and read first time: February 10, 2010

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **State Retirement and Pension System – Disability Retirement Application**
3 **– Surviving Beneficiary**

4 FOR the purpose of authorizing a certain beneficiary to submit an application for
5 disability retirement under certain circumstances; requiring the Board of
6 Trustees of the State Retirement and Pension System to accept an application
7 for disability retirement from a certain beneficiary under certain circumstances;
8 requiring the medical board to review a certain application to make a certain
9 determination under certain circumstances; requiring the Board of Trustees to
10 review a certain application to make a certain determination; requiring the
11 Board of Trustees to grant a disability retirement allowance under certain
12 circumstances; requiring a certain burden of proof to be on a certain beneficiary;
13 requiring a disability retirement allowance to begin at a certain time under
14 certain circumstances; providing for the application of this Act; and generally
15 relating to an application for disability retirement submitted by a surviving
16 beneficiary of a deceased member of the State Retirement and Pension System.

17 BY repealing and reenacting, with amendments,
18 Article – State Personnel and Pensions
19 Section 29–103(a) and 29–104
20 Annotated Code of Maryland
21 (2009 Replacement Volume and 2009 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article – State Personnel and Pensions**

25 29–103.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) Subject to § 29–104 of this subtitle, an application for disability
2 retirement may be submitted:

3 (1) by a member;

4 (2) by a former member; [or]

5 **(3) BY A SURVIVING BENEFICIARY OF A DECEASED MEMBER; OR**

6 **[(3)] (4)** for a member, as provided in subsections (b) through (d) of
7 this section.

8 29–104.

9 (a) Except as provided in [subsection (c)] **SUBSECTIONS (C) AND (D)** of this
10 section and subject to subsection **[(d)] (E)** of this section, an application for disability
11 retirement must be submitted before the date membership ends.

12 (b) (1) This subsection applies only to an application for an ordinary or
13 accidental disability retirement allowance filed by a member of the Employees'
14 Pension System or the Teachers' Pension System who is not subject to the contributory
15 pension benefit or the Alternate Contributory Pension Selection and who separated
16 from employment on or before June 30, 2005.

17 (2) For the purpose of submitting an application for disability,
18 membership continues for 4 years after paid employment ends.

19 (c) (1) Except as provided in paragraph (2) of this subsection, the Board of
20 Trustees may accept an application for ordinary, accidental, or special disability
21 retirement from a former member within 24 months after the month membership
22 ended if the former member proves to the satisfaction of the medical board that failure
23 to submit an application while a member was attributable solely to physical or mental
24 incapacity during the filing period.

25 (2) The Board of Trustees may accept an application for ordinary or
26 accidental disability retirement from a former member of the Teachers' Retirement
27 System within 12 months after the month membership ended if the former member of
28 the Teachers' Retirement System proves to the satisfaction of the medical board that
29 failure to submit an application while a member of the Teachers' Retirement System
30 was attributable solely to physical or mental incapacity during the filing period.

31 (3) If the Board of Trustees accepts a disability retirement application
32 under this subsection and grants a disability retirement allowance, the retirement
33 allowance begins as of the first day of the month after the Board of Trustees receives
34 the application.

1 (D) (1) THE BOARD OF TRUSTEES SHALL ACCEPT AN APPLICATION
2 FOR ORDINARY, ACCIDENTAL, OR SPECIAL DISABILITY RETIREMENT FROM A
3 SURVIVING BENEFICIARY OF A DECEASED MEMBER, IF THE DISABILITY
4 APPLICATION:

5 (I) IS SIGNED AND DATED BY THE DECEASED MEMBER
6 WITHIN 1 WEEK BEFORE THE DEATH OF THE MEMBER; AND

7 (II) IS RECEIVED BY THE BOARD OF TRUSTEES ON OR
8 BEFORE 1 MONTH AFTER THE DATE OF THE DEATH OF THE MEMBER.

9 (2) IF THE BOARD OF TRUSTEES RECEIVES AN APPLICATION
10 UNDER PARAGRAPH (1) OF THIS SUBSECTION:

11 (I) THE MEDICAL BOARD SHALL REVIEW THE APPLICATION
12 TO DETERMINE IF THE DECEASED MEMBER WAS MENTALLY OR PHYSICALLY
13 INCAPACITATED FOR THE FURTHER PERFORMANCE OF THE NORMAL DUTIES OF
14 THE INDIVIDUAL'S POSITION; AND

15 (II) THE BOARD OF TRUSTEES SHALL REVIEW THE
16 APPLICATION TO DETERMINE THE AUTHENTICITY OF THE SIGNATURE OF THE
17 DECEASED MEMBER.

18 (3) THE BOARD OF TRUSTEES SHALL GRANT A DISABILITY
19 RETIREMENT ALLOWANCE, IF:

20 (I) THE MEDICAL BOARD DETERMINES THAT THE
21 DECEASED MEMBER WOULD HAVE BEEN ELIGIBLE FOR DISABILITY
22 RETIREMENT AT THE TIME THE DECEASED MEMBER SIGNED THE DISABILITY
23 APPLICATION; AND

24 (II) THE BOARD OF TRUSTEES DETERMINES THAT THE
25 SIGNATURE IS VALID.

26 (4) THE BURDEN OF PROOF SHALL BE ON THE SURVIVING
27 BENEFICIARY TO ESTABLISH THE FORMAL AUTHENTICITY OF THE SIGNATURE
28 OF THE DECEASED MEMBER.

29 (5) IF THE BOARD OF TRUSTEES ACCEPTS A DISABILITY
30 RETIREMENT APPLICATION UNDER THIS SUBSECTION AND GRANTS A
31 DISABILITY RETIREMENT ALLOWANCE, THE RETIREMENT ALLOWANCE BEGINS
32 AS OF THE FIRST DAY OF THE MONTH AFTER THE BOARD OF TRUSTEES
33 RECEIVES THE APPLICATION.

1 **[(d)](E)** (1) This subsection does not apply to an application for special
2 disability under the State Police Retirement System or an application for accidental
3 disability under the Law Enforcement Officers' Pension System or to an application for
4 accidental disability under the Correctional Officers' Retirement System.

5 (2) The Board of Trustees may not accept an application for accidental
6 disability filed by a member or former member more than 5 years after the date of the
7 claimed accident.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
9 construed to apply retroactively and shall be applied to and interpreted to affect any
10 individual who dies on or after May 1, 2009, while employed by the State as a member
11 of the Employees' Retirement System or Employees' Pension System and an
12 application for disability is submitted by a surviving beneficiary within 1 month of the
13 death of the member.

14 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 June 1, 2010.